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Docket No.: 600.1280
Date: March 30, 2009

In re application of: **Oliver DITTMAR et al.**
Serial No.: 10/643,815
Filed: August 18, 2003
For: **METHOD AND DEVICE FOR SIMULATING PROCESS FLOWS IN THE GRAPHICS INDUSTRY**

S i r:

Transmitted herewith is an **Appeal Brief including Appendices A, B & C (18 pgs)** in the above-identified application.

☒ Also transmitted herewith are:
- ☐ Petition for extension under 37 C.F.R. §1.136
- ☒ Return Receipt Postcard
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☒ Check(s) in the amount of **$540.00** is/are attached to cover:
- ☐ Filing fee for additional claims under 37 C.F.R. §1.16
- ☐ Petition fee for extension under 37 C.F.R. §1.136
- ☒ Other: **Fee for Filing a Brief in Support of an Appeal under 37 C.F.R. §41.20(b)(2)**

☒ The Assistant Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 50-0552.

- ☒ Any filing fee under 37 C.F.R. §1.16 for the presentation of additional claims which are not paid by check submitted herewith.
- ☒ Any patent application processing fees under 37 C.F.R. §1.17.
- ☒ Any petition fees for extension under 37 C.F.R. §1.136 which are not paid by check submitted herewith, and it is hereby requested that this be a petition for an automatic extension of time under 37 CFR §1.136.

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I hereby certify that the documents referred to as attached therein and/or fee are being deposited with the United States Postal Service as "first class mail" with sufficient postage in an envelope addressed to "Mail Stop: APPEAL BRIEF- PATENTS Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on March 30, 2009.

DAVIDSON, DAVIDSON & KAPPEL, LLC

BY: _____
Clint R. Mehall

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Re:	Appl. No.	:	10/643,815 Confirmation No. 4785
	Applicant	:	**Oliver DITTMAR et al.**
	Filed	:	August 18, 2003
	Title	:	**METHOD AND DEVICE FOR SIMULATING PROCESS FLOWS IN THE GRAPHICS INDUSTRY**
	TC/A.U.	:	2163
	Examiner	:	Patrick A. DARNO
	Docket No.	:	600.1280
	Customer No.	:	23280

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

March 30, 2009

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

Sir:

Appellants submit this brief for the consideration of the Board of Patent Appeals and Interferences (the "Board") in support of their appeal of the Final Rejection dated October 27, 2008 in this application. The statutory fee of $540.00 for filing an appeal brief is paid concurrently herewith. If any additional fees are deemed to be due at this time, the Assistant Commissioner is authorized to charge payment of the same to Deposit Account No. 50-0552.

REAL PARTY IN INTEREST

The real party in interest is Heidelberger Druckmaschinen AG, a corporation having a place of business in Heidelberg, Germany, and the assignee of the entire right, title and interest in the above-identified patent application. The invention was assigned to Heidelberger Druckmaschinen AG by an assignment from inventors Oliver Dittmar, Tina Koehler, Johannes Pfeuffer and Harald Woerner. The assignment was recorded on February 26, 2004 at reel 015009, frame 0900.

I. RELATED APPEALS AND INTERFERENCES

Appellants, their legal representatives, and assignee are not aware of any appeal, interference or judicial proceeding that directly affects, will be directly affected by, or will have a bearing on the Board's decision in this appeal.

II. STATUS OF CLAIMS

Claims 1 to 3, 5, 6, 8 and 10 to 12 are pending. Claims 4, 7 and 9 have been canceled. Claims 1 to 3, 5, 6, 8 and 10 to 12 have been finally rejected as per the Final Office Action dated October 27, 2008.

The rejection of claims 1 to 3, 5, 6, 8 and 10 to 12 thus is appealed. A copy of pending claims 1 to 3, 5, 6, 8 and 10 to 12 is attached hereto as Appendix A.

III. STATUS OF AMENDMENTS AFTER FINAL

No amendments were filed after the final rejection. An advisory action was issued on February 13, 2009. A Notice of Appeal was filed on January 27, 2009 and received by the U.S.P.T.O. on January 30, 2009.

IV. SUMMARY OF THE CLAIMED SUBJECT MATTER

Independent claim 1 recites a method for simulating process flows in the graphics industry and for displaying the result calculated in the simulated process flows and/or intermediate results (e.g., specification at page 3, lines 13 to 15, paragraph [0009]), comprising the steps of:

inputting or selecting at least one order data set representing a print job via a user interface of a computer (e.g., specification at page 9, lines 21 to 30, paragraph [0030]);

selecting process data sets representing machines via a graphical user interface, the process data sets representing the machines being stored in a library (e.g., specification at page 9, lines 19 to 21, paragraph [0030]), the print job determining minimum requirements to be met by a machine to be eligible as a process data set for a simulation (e.g., specification at page 11, lines 3 to 8, paragraph [0034]) and excluding machines that do not meet the requirements from the simulation (e.g., specification at page 11, lines 8 to 9, paragraph [0034]);

distributing the at least one order data set among the selected process data sets (e.g., specification at page 10, lines 7 to 11, paragraph [0032]);

calculating links between the order data set and the process data sets as a function of the order data set and the process data sets (e.g., specification at page 3, lines 28 to 29, paragraph [0011]);

creating a process flow from the calculated links (e.g., specification at page 3, lines 29 to 30, paragraph [0011]);

calculating results or intermediate results for the process flow using the order data set (e.g., specification at page 3, line 30 to page 4, line 2, paragraph [0011]); and

outputting the results or intermediate results on a display of the computer (e.g., specification at page 3, line 30 to page 4, line 2, paragraph [0011]).

Independent claim 12 recites a device for simulating process flows in the graphics industry and for displaying the result calculated in the simulated process flows or intermediate results on a display device (e.g., specification at page 3, lines 13 to 15, paragraph [0009]), comprising:

at least one user interface for inputting or selecting at least one order data set representing a print job (e.g., specification at page 9, lines 27 to 30, paragraph [0030]), the print job determining minimum requirements to be met by a machine to be eligible as a process data set for a simulation (e.g., specification at page 11, lines 3 to 8, paragraph [0034]);

at least one graphical user interface for selecting process data sets representing machines (e.g., reference 10 in Fig. 1; specification at page 8, lines 15 to 20, paragraph [0028]);

at least one computer (e.g., specification at page 7, line 28 to page 8, line 13, paragraph [0027]) for excluding machines that do not meet the requirements of the print from the simulation (e.g., specification at page 11, lines 7 to 9, paragraph [0034]) and for distributing the at least one order data set among the selected process data sets (e.g., specification at page 10, lines 7 to 11, paragraph [0032]) and for calculating links between order data set and process data sets as a function of the order data set and the process data sets (e.g., specification at page 3, lines 28 to 29, paragraph [0011]);

the computer for creating a process flow from the calculated links (e.g., specification at page 3, lines 29 to 30, paragraph [0011]);

the computer for calculating the result or intermediate results for the process flow using the order data set (e.g., specification at page 3, line 30 to page 4, line 2, paragraph [0011]); and

a display for displaying the results or intermediate results (e.g., specification at page 3, line 30 to page 4, line 2, paragraph [0011]).

Dependent claim 2 recites the method as recited in claim 1 wherein the calculating of the links between the order data set and the process data set includes an evaluation method, the evaluation method including making a query as to which process data set is capable of processing an input or selected order data set of the at least one process data set so as to define positively queried process data sets (e.g., specification at page 4, lines 16 to 17, paragraph [0013]); writing the positively queried process data sets to a resource table (e.g., specification at page 4, lines 17 to 18, paragraph [0013]); establishing a ranking of the positively queried process data sets as a function of the process flow data and the order data set (e.g., specification at page 4, lines 18 to 19, paragraph [0013]); selecting the process data set with a highest ranking (e.g., specification at page 4, lines 19 to 20, paragraph [0013]); and assigning the process data set with the highest

ranking to the selected order data set (e.g., specification at page 4, lines 19 to 20, paragraph [0013]).

Dependent claim 11 recites the method as recited in claim 1 wherein the process data sets contain dimensions associated with graphics industry devices or the dimensions associated with the devices are displayed on a display device (e.g., specification at page 6, line 27 to page 7, line 9, paragraph [0021]).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1 to 3, 5, 6, 8, 10 and 12 were rejected under 35 U.S.C. 103(a) as being unpatentable over Nguyen et al. (U.S. Patent 6,983,232) in further view of Newman (U.S. Patent 6,603,483) and Russell et al. (U.S. Publication 2004/0122629). Claim 11 was rejected under 35 U.S.C. 103(a) as being unpatentable over Nguyen et al. in view of Newman, Russell et al. and Nakano et al. (U.S. Publication 2003/0018542).

VII. ARGUMENTS

A. Rejections under 35 U.S.C. 103(a)

1. Claims 1 to 3, 5, 6, 8, 10

Claims 1 to 3, 5, 6, 8, 10 and 12 were rejected under 35 U.S.C. 103(a) as being unpatentable over Nguyen et al. (U.S. Patent 6,983,232) in further view of Newman (U.S. Patent 6,603,483) and Russell et al. (U.S. Publication 2004/0122629).

Nguyen et al. describes a customer benefit tool which allows customer models to be validated under acceptance test conditions to ensure that the machine based processes and cycle times have been accurately modeled. (See col. 2; lines 51 to 54). A user proposes a configuration for an assembly line by selecting objects that represent assembly line equipment, the objects having specific values for operating characteristics. "The configuration and associated operating characteristic values are then used to build a discrete event simulation." (See col. 3; lines 9 to 10). To streamline the building of a simulation by selecting and arranging the simulation objects, templates may be created and values may be read into the template to create the simulation object." (Nguyen col. 3; lines 14 to 18). These simulation objects can also be formed using designer objects and templates. (See col. 5; line 56 to col. 6; line 1).

Newman relates to a proofing system, which involves simulating a printed image that would be printed by a printing press by rendering digital image data on a CRT display. (Col. 1, lines 19 to 31).

Russell et al. discloses a method for selecting a pattern of test rods (e.g., notch positions and sequences for control blade patterns for BWRs, group sequences for control rod patters for PWRs, etc.) for use in a nuclear reactor plant by inputting input values and performing a simulation based on the input values. (Paragraphs [0022], [0034]). The input values may be limited by input limits, which may be related to client-inputted reactor plant specific constraints and core performance criteria. (Paragraph [0038]). A sequence strategy for the blade positions may be established by a user with the aid of blade control themes, which helps the user identify permissible blade groups and prevent undesirable blade groups from being used. (Paragraph [0039]).

Claim 1 recites "[a] method for simulating process flows in the graphics industry and for displaying the result calculated in the simulated process flows and/or intermediate results, comprising the steps of:

inputting or selecting at least one order data set representing a print job via a user interface of a computer;

selecting process data sets representing machines via a graphical user interface, the process data sets representing the machines being stored in a library, the print job determining minimum requirements to be met by a machine to be eligible as a process data set for a simulation and excluding machines that do not meet the requirements from the simulation;

distributing the at least one order data set among the selected process data sets;

calculating links between the order data set and the process data sets as a function of the order data set and the process data sets;

creating a process flow from the calculated links;

calculating results or intermediate results for the process flow using the order data set; and

outputting the results or intermediate results on a display of the computer."

It is respectfully submitted that none of the cited references discloses "the print job determining minimum requirements to be met by a machine to be eligible as a process data set for a simulation and excluding machines that do not meet the requirements from the simulation" as recited in claim 1 and it would not have been obvious to have combined these references to have met these limitations. Nguyen et al. discloses an electronic components assembly system wherein a consultant or customer chooses a line configuration of designer objects (pieces of assembly line equipment) from a machine library, alters parameters of a designer object to create a simulation object, runs a test simulation on the simulation objects, and then compares the test simulation to an acceptance testing. (See, e.g., Col. 11, Lines 9 to 28; Col. 15, Lines 31 to 40; Col. 2, Lines 42 to 58). Nguyen et al. does not relate in any way to a "print job," as required by claim, especially distributing at least one order data set representing a print job among selected process data sets representing machines as is required by the language of claim 1. Nguyen et al. also does not disclose excluding machines that do not meet minimum requirements from a simulation, as required by claim 1.

The Examiner acknowledges that Nguyen et al. does not relate to a "print job" and cites Newman to cure this deficiency. Newman relates to a proofing system, which involves generating a color transformation sequence, transforming color image data for a particular printer and displaying the image data on a proofer display. (Col. 1, lines 19 to 31). Newman does not disclose distributing at least one order data representing a print job among selected process data sets representing machines as required claim 1 because Newman only involves a color profile of a single output device. Thus, Newman cannot cure the "print job" deficiency of claim 1 or the deficiency of Nguyen et al. with respect to the "distributing" step of claim 1. Also, Newman does not disclose excluding machines that do not meet minimum requirements from a simulation and thus cannot cure this deficiency of Nguyen et al. with respect to claim 1.

The Examiner acknowledges that neither Nguyen et al. nor Newman discloses the step of "excluding machines" and cites Russell et al. as curing this deficiency. As discussed above, Russell et al. merely discloses that a reactor plant or a reactor core determines limits that must be met by a blade sequence and a user may prevent undesirable blades from being used in a rod pattern simulation. This is clearly not "the print job determining minimum requirements to be met by a machine to be eligible as a process data set for a simulation and excluding machines that do not meet the requirements from the simulation" as required by claim 1. Also, it is respectfully submitted that the reactor plant or the reactor core that determines limit of a blade sequence is clearly not analogous to the "print job" in the method of claim 1. Claim 1, as whole, requires that machines are excluded from a simulated process flow involving the distribution of order data of a print job among the selected machines based on minimum requirements of the print job. The method in Russell et al. is not analogous to the method of claim 1, because the reactor plant or core which limits the blade sequence in Russell et al. is merely the desired location of the simulation. Unlike data related to a print job, data related a reactor plant or core is not distributed to selected blades of the rod pattern as in the method of claim 1. Thus, the disclosure of Russell et al., which is limited in applicability to the simulation of power generation and clearly does not in any way suggest a print job, or anything analogous to a print job, excluding machines from a process flow, does not cure the deficiencies of Nguyen et al. and Newman with respect to claim 1. Thus, no combination of the cited references discloses each and every limitation of the method of claim 1.

Furthermore, it is respectfully submitted that it would not have been obvious to one of skill in the art to have modified Nguyen et al. in view of Newman and Russell et al. to have met the limitations of claim 1. One of skill in the art would not have modified Nguyen et al. in view of Newman to meet the limitations of claim 1 because Newman is related to a proofing process, which involves testing print quality of input data by generating a test print on a display, and is not applicable to the simulation of an assembly line to ensure that the machine based processes and cycle times have been accurately modeled. Newman relates to simulating printing quality, but not simulating timing and processes of an assembly line, which is the purpose of Nguyen et al. Thus, one of skill in the art would not have had any reason to have modified the assembly line simulation of Nguyen et al. in view of the print quality simulation in Newman. Such simulations are completely distinct and would not be incorporated with one another by one of skill in the art. Thus, it is respectfully submitted that one of skill in the art would not have combined Nguyen et al. and Newman to have used the assembly line simulation of Nguyen et al. for a print job.

Also, it is respectfully submitted that one of skill in the art would not have modified the assembly line simulation system of Nguyen et al. in view of the nuclear rod pattern designing system of Russell et al. to have met the limitations of claim 1. Designing a rod pattern for the core of a nuclear reactor, an extremely specialized art, is completely distinct from simulating an assembly line or simulating the process flow in the graphics art industry. Thus, because one of skill in the art would not have reasonably expected to solve the problem of simulating an assembly line or simulating the process flow in the graphics art industry by considering a reference dealing with simulating a nuclear reactor, one of skill in the art would not have modified Nguyen et al. Russell et al. to have met the limitations of claim 1.

Reversal of the rejection under 35 U.S.C. 103(a) of claim 1, and claims 2, 3, 5, 6, 8 and 10 depending therefrom, is respectfully requested.

2. Claim 12: Argued Separately

Claim 12 was rejected under 35 U.S.C. 103(a) as being unpatentable over Nguyen et al. (U.S. Patent 6,983,232) in further view of Newman (U.S. Patent 6,603,483) and Russell et al. (U.S. Publication 2004/0122629).

Nguyen et al., Newman and Russell et al. are described above.

Claim 12, as amended, recites a device for simulating process flows in the graphics industry and for displaying the result calculated in the simulated process flows or intermediate results on a display device, comprising:

at least one user interface for inputting or selecting at least one order data set representing a print job, the print job determining minimum requirements to be met by a machine to be eligible as a process data set for a simulation;

at least one graphical user interface for selecting process data sets representing machines;

at least one computer for excluding machines that do not meet the requirements of the print from the simulation and for distributing the at least one order data set among the selected process data sets and for calculating links between order data set and process data sets as a function of the order data set and the process data sets;

the computer for creating a process flow from the calculated links;

the computer for calculating the result or intermediate results for the process flow using the order data set; and

a display for displaying the results or intermediate results.

For at least the reasons set forth above with regard to claim 1, none of the cited references teaches or shows "the print job determining minimum requirements to be met by a machine to be eligible as a process data set for a simulation" and "at least one computer for excluding machines that do not meet the requirements of the print from the simulation and for distributing the at least one order data set among the selected process data sets," as now recited in claim 12. Also, it would not have been obvious to one of skill in the art to have combined the cited references to meet the limitations of claim 12. The method of using a reactor plant or core to determines limits of the blade sequence in Russell et al. is clearly not analogous to using the "print job" in the method of claim 12 to exclude machines. Thus claim 12 is not unpatentable in view of the cited references because no combination of the cited references teaches or discloses all of the limitations of claim 12.

Reversal of the rejection of claim 12 under 35 U.S.C. 103(a) is respectfully requested.

3. Claim 11: Argued Separately

Claim 11 was rejected under 35 U.S.C. 103(a) as being unpatentable over Nguyen et al. in view of Newman, Russell et al. and Nakano et al. (U.S. Publication 2003/0018542).

Nguyen et al., Newman and Russell et al. are described above.

Nakano et al. discloses a machine element selection support system that includes a database apparatus and a selection support server, which is connected to a network. A customer, who wishes to select a machine element, such as a rolling bearing, gains access to the selection support server using a customer terminal. (Abstract).

Claim 11 recites "[t]he method as recited in claim 1 wherein the process data sets contain dimensions associated with graphics industry devices or the dimensions associated with the devices are displayed on a display device."

Nakano et al. is cited solely for its alleged disclosure of the additional limitations of claim 11 and does not cure the deficiencies in Nguyen et al., Newman and Russell et al. outlined above. Furthermore, it is respectfully submitted that modifying the asserted combination of Nguyen et al., Newman and Russell et al. in view of Nakano et al. would still not meet the limitations of claim 11. Nakano et al. merely discloses choosing an element of a machine (a bearing) based on the specifications of the entire machine. This in no way teaches or suggests associating the process data sets with graphics industry devices or displaying dimension associated with graphics industry devices on a display device as is required by claim 11. Thus, because each and every limitation of claim 11 is not taught by the asserted combination of cited references, claim 11 is not unpatentable.

Reversal of the rejection of claim 11 under 35 U.S.C. 103(a) is respectfully requested.

4. Claim 2: Argued Separately

Claim 2 recites "[t]he method as recited in claim 1 wherein the calculating of the links between the order data set and the process data set includes an evaluation method, the evaluation method including making a query as to which process data set is capable of processing an input or selected order data set of the at least one process data set so as to define positively queried process data sets; writing the positively queried process data sets to a resource table; establishing

a ranking of the positively queried process data sets as a function of the process flow data and the order data set; selecting the process data set with a highest ranking; and assigning the process data set with the highest ranking to the selected order data set."

With further respect to claim 2, it is respectfully submitted that none of the cited references discloses "establishing a ranking of the positively queried process data sets as a function of the process flow data and the order data set; selecting the process data set with a highest ranking; and assigning the process data set with the highest ranking to the selected order data set" as recited in claim 2. Specifically, it is respectfully submitted that the portion of Nguyen et al. (col. 9, lines 1 to 4) cited by the Examiner does not teach or disclose this limitation. Nguyen et al. teaches building simulation objects by putting extracted sheet data into a Transfer File, but in no way mentions even establishing a ranking of any of the simulation objects. Thus claim 2 is not unpatentable in view of the cited references because no combination of the cited references teaches or discloses all of the limitations of claim 2.

For this reason also, reversal of the rejection under 35 U.S.C. 103(a) of claim 2 is respectfully requested.

CONCLUSION

It is respectfully submitted that the application is in condition for allowance. Favorable consideration of this appeal brief is respectfully requested.

Respectfully submitted,

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APPENDIX A:

PENDING CLAIMS 1 to 3, 5, 6, 8 and 10 to 12 of
U.S. APPLICATION SERIAL NO. 10/643,815

Claim 1 (previously presented): A method for simulating process flows in the graphics industry and for displaying the result calculated in the simulated process flows and/or intermediate results, comprising the steps of:

inputting or selecting at least one order data set representing a print job via a user interface of a computer;

selecting process data sets representing machines via a graphical user interface, the process data sets representing the machines being stored in a library, the print job determining minimum requirements to be met by a machine to be eligible as a process data set for a simulation and excluding machines that do not meet the requirements from the simulation;

distributing the at least one order data set among the selected process data sets;

calculating links between the order data set and the process data sets as a function of the order data set and the process data sets;

creating a process flow from the calculated links;

calculating results or intermediate results for the process flow using the order data set; and

outputting the results or intermediate results on a display of the computer.

Claim 2 (previously presented): The method as recited in claim 1 wherein the calculating of the links between the order data set and the process data set includes an evaluation method, the evaluation method including making a query as to which process data set is capable of processing

an input or selected order data set of the at least one process data set so as to define positively queried process data sets; writing the positively queried process data sets to a resource table; establishing a ranking of the positively queried process data sets as a function of the process flow data and the order data set; selecting the process data set with a highest ranking; and assigning the process data set with the highest ranking to the selected order data set.

Claim 3 (original): The method as recited in claim 1 wherein the calculating of the links between order data set and process data set includes a further method, the further method including sequentially assigning one of the order data sets of the at least one order data sets to one or more of the process data sets; comparing the order data sets and assigned process data sets to each other; and in each case creating a best linkage as a function of the order data set.

Claim 5 (previously presented): The method as recited in claim 1 wherein the process data set contains performance specifications or operating costs of a device of the graphics industry needed for the process flow.

Claim 6 (original): The method as recited in claim 5 wherein the device is a printing press or a prepress device.

Claim 8 (previously presented): The method as recited in claim 1 wherein prior to inputting or selecting steps, access to the at least one order data set stored in a library is provided.

Claim 10 (original): The method as recited in claim 1 wherein the order data sets can be selected

and called up from a library on a display device with the aid of a graphical user interface.

Claim 11 (previously presented): The method as recited in claim 1 wherein the process data sets contain dimensions associated with graphics industry devices or the dimensions associated with the devices are displayed on a display device.

Claim 12 (previously presented): A device for simulating process flows in the graphics industry and for displaying the result calculated in the simulated process flows or intermediate results on a display device, comprising:

at least one user interface for inputting or selecting at least one order data set representing a print job, the print job determining minimum requirements to be met by a machine to be eligible as a process data set for a simulation;

at least one graphical user interface for selecting process data sets representing machines;

at least one computer for excluding machines that do not meet the requirements of the print from the simulation and for distributing the at least one order data set among the selected process data sets and for calculating links between order data set and process data sets as a function of the order data set and the process data sets;

the computer for creating a process flow from the calculated links;

the computer for calculating the result or intermediate results for the process flow using the order data set; and

a display for displaying the results or intermediate results.

APPENDIX B

Evidence Appendix under 37 C.F.R. §41.37 (c) (ix):

No evidence pursuant to 37 C.F.R. §§1.130, 1.131 or 1.132 and relied upon in the appeal has been submitted by appellants or entered by the examiner.

APPENDIX C

Related proceedings appendix under 37 C.F.R. §41.37 (c) (x):

As stated in "2. RELATED APPEALS AND INTERFERENCES" of this appeal brief, appellants, their legal representatives, and assignee are not aware of any appeal or interference that directly affects, will be directly affected by, or will have a bearing on the Board's decision in this appeal.